

AMENDED IN ASSEMBLY JUNE 2, 2003

AMENDED IN ASSEMBLY MAY 6, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## ASSEMBLY BILL

**No. 855**

**Introduced by Assembly Members Firebaugh and Levine**

February 20, 2003

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An act to add ~~Sections 14666.8 and 14666.9~~ *Section 14666.8* to the Government Code, and to add Section 709.5 to the Public Utilities Code, relating to telecommunications, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 855, as amended, Firebaugh. Wireless telecommunications: access to state property.

(1) Existing law requires the Director of General Services, with the approval of the state agency concerned, to negotiate, in the name of the state, access to state-owned property not used for highway purposes, for those purposes and subject to those conditions, limitations, restrictions, and reservations determined by the director to be in the interest of the state. Existing law provides that this requirement to negotiate access applies to telecommunications and information technologies. Existing law requires, to the extent permitted under existing law, the Director of General Services to determine the amount of consideration for, and means of access, which means shall include, but not be limited to, lease, permit, or other form of providing a monetary or service consideration for the access.

Existing law imposes similar requirements on the Director of Transportation with respect to state-owned highway rights-of-way.

This bill would require the Director of General Services, within 120 days of the operative date of the bill, to compile and maintain an inventory of state-owned real property, excluding state-owned highway rights-of-way that may be available for lease to providers of wireless telecommunications services for location of wireless telecommunications facilities, and to make the inventory available on the Department of General Services' Web site. It would authorize the director to negotiate and enter into an agreement for the lease of certain state-owned real property to any provider of wireless telecommunications services for location of its facilities, subject to specified conditions.

~~The bill would impose similar requirements on the Director of Transportation with respect to state-owned highway rights-of-way.~~

(2) Existing law requires the Public Utilities Commission to develop a plan to encourage the widespread availability and use of advanced communications infrastructure consistent with the state policy of bridging the digital divide.

The bill would require that 15% of the revenues from fees collected from the lease of state-owned real property to the providers of wireless telecommunication services pursuant to its provisions, with certain exceptions, be deposited in the Digital Divide Account established by the bill in the California Teleconnect Fund Administrative Committee Fund. It would require the revenues deposited in the account to be available, upon appropriation by the Legislature, to be administered by the commission to finance digital divide projects through the Digital Divide Grant Program established by the bill. The bill would require the commission to report to the Legislature and Governor annually on the effectiveness of the program.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:



1 (a) Wireless telecommunications service is a critical part of  
2 California's infrastructure.

3 (b) The rapid deployment of wireless telecommunications  
4 facilities is critical to ensure network access and quality of service.

5 (c) It is in the public interest to minimize the aesthetic impact  
6 of wireless telecommunications towers and facilities necessary to  
7 support wireless networks.

8 (d) Use of property owned by the state, local government  
9 agencies, and other public entities for location of wireless  
10 telecommunications facilities will expedite deployment of  
11 wireless telecommunications service and minimize the aesthetic  
12 impact of wireless telecommunications towers and, facilities, or  
13 other wireless repeaters, amplifiers, regenerative repeaters, or  
14 regenerators that have the shape of natural or manmade structures  
15 or objects.

16 SEC. 2. Section 14666.8 is added to the Government Code, to  
17 read:

18 14666.8. (a) The director shall, within 120 days of the  
19 operative date of this section, compile and maintain an inventory  
20 of state-owned real property that may be available for lease to  
21 providers of wireless telecommunications services for location of  
22 wireless telecommunications facilities. This inventory shall be the  
23 state's sole inventory of state-owned real property available for  
24 this purpose. The term "state-owned real property," as used in this  
25 section, excludes state-owned highway rights-of-way.

26 (b) The director shall make the inventory available on the  
27 department's Web site.

28 (c) On behalf of the state, the director may negotiate and enter  
29 into an agreement to lease state-owned real property, not subject  
30 to an existing state franchise, to any provider of wireless  
31 telecommunications services for location of its facilities. A lease  
32 for this purpose shall do all of the following:

33 (1) Provide for a reasonable rental fee to be paid to the state to  
34 the extent permitted under existing law.

35 (2) Designate a lease term that is acceptable to the director.

36 (3) Provide for the use of the wireless provider's facilities  
37 located on the state-owned real property by any appropriate state  
38 agency if technically, legally, aesthetically, and economically  
39 feasible.

(4) Facilitate, to the greatest extent possible, agreements among providers of wireless telecommunications services for colocation of their facilities on state-owned real property.

~~(d) The director shall develop and distribute materials for use by local government agencies that encourage these agencies to compile and maintain inventories of local agency-owned real property that may be available to providers of wireless telecommunications services for the location of wireless telecommunications facilities.~~

SEC. 3. ~~Section 14666.9 is added to the Government Code, to read:~~

~~14666.9. (a) The Director of Transportation shall, within 120 days of the operative date of this section, compile and maintain an inventory of state-owned highway rights-of-way that may be available for lease to providers of wireless telecommunications services for location of wireless telecommunications facilities. This inventory shall be the state's sole inventory of state-owned highway rights-of-way available for this purpose.~~

~~(b) The Director of Transportation shall make the inventory available on the Department of Transportation's Web site.~~

~~(c) On behalf of the state, the Director of Transportation may negotiate and enter into an agreement to lease state-owned highway rights-of-way, not subject to an existing state franchise, to any provider of wireless telecommunications services for location of its facilities. A lease for this purpose shall do all of the following:~~

~~(1) Provide for a reasonable rental fee to be paid to the state to the extent permitted under existing law.~~

~~(2) Designate a lease term that is acceptable to the Director of Transportation.~~

~~(3) Provide for the use of the wireless provider's facilities located on the state-owned highway rights-of-way by any appropriate state agency if technically, legally, aesthetically, and economically feasible.~~

~~(4) Facilitate, to the greatest extent possible, agreements among providers of wireless telecommunications services for colocation of their facilities on state-owned highway rights-of-way.~~

~~(d) The Director of Transportation shall develop and distribute materials for use by local government agencies that encourage~~

~~these agencies to compile and maintain inventories of local agency-owned rights-of-way that may be available to providers of wireless telecommunications services for the location of wireless telecommunications facilities.~~

~~SEC. 4.—~~

SEC. 3. Section 709.5 is added to the Public Utilities Code, to read:

709.5. (a) Of the revenues from fees collected pursuant to Section 14666.8 of the Government Code after the operative date of this section, except for revenues from fees from a lease agreement for access to Department of Transportation property or a lease agreement existing prior to the operative date of the section, 15 percent shall be available, upon appropriation by the Legislature, for the purpose of addressing the state's digital divide.

(b) ~~(1)~~ Revenues described in subdivision (a) shall be deposited in the Digital Divide Account, which is hereby established in the California Teleconnect Fund Administrative Committee Fund established pursuant to Section 270, to be used only for digital divide pilot projects.

~~(2) The commission may use not more than 5 percent of the amounts deposited in the Digital Divide Account as described in subdivision (b) to pay the costs of administering this section.~~

(c) (1) The Digital Divide Grant Program is hereby established subject to the availability of funding pursuant to this section. *The commission shall not implement the grant program until at least two hundred thousand dollars (\$200,000) has been deposited into the Digital Divide Account.*

(2) The commission shall provide grants pursuant to this subdivision on a competitive basis subject to criteria to be established by the commission and in a way that disburses the funds widely, including urban and rural areas. Grants shall be awarded to community-based nonprofit organizations that are exempt from taxation under Section 501(c)(3) of the Internal Revenue Code for the purpose of funding community technology programs.

(3) Recipients of grants pursuant to this subdivision shall report to the commission annually on the effectiveness of the grant program.

(4) The commission shall report to the Legislature and the Governor annually on the effectiveness of the program administered pursuant to this subdivision.

(d) For purposes of this section, “community technology programs” means a program that is engaged in diffusing technology in local communities and training local communities in the use of technology, especially local communities that otherwise would have no access or limited access to the Internet and other technologies.

(e) For purposes of this section, “digital divide projects” means community technology programs involved in activities that include, but are not limited to, the following:

(A) Providing open access to and opportunities for training in technology.

(B) Developing content relevant to the interests and wants of the local community.

(C) Preparing youth for opportunities in the new economy through multimedia training and skills.

(D) Harnessing technology for e-government services.

(f) Nothing in this section may be construed to alter any existing rights of telephone corporations under Section 7901.

~~SEC. 5.—~~

*SEC. 4.* This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make state-owned real property available for lease, and to make the resulting revenues available for addressing the state’s digital divide, at the earliest possible time, it is necessary for this act to go into immediate effect.